IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO.11652 of 2004

Between:

Sri T.Satyanarayana S/o. Sri Janardhan
P.A. (Planning) O/o GMTD, Nizamabad.

..... PETITIONER

AND

1 The Divisional Engineer (Admn.) BSNL, O/o the G.M.T.D
Nizamabad.
2 The Deputy General Manager (A & P) O/o the General Manager Telecom

Department, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the charge sheet vide proceedings No.GMTD-NZB/Disc/TS/2000-2001/26, dated 5.12.2001 issued by the first respondent on behalf of the second respondent is illegal, arbitrary and without power and consequently quash the same and to pass such other or further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.CH.RAVINDER

Counsel for the Respondents 1 and 2: MR.B.NARASIMHA REDDY

The Court at the admission stage made the following Order:

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO.11652 OF 2004

0RDER:

In this writ petition, the petitioner seeks the remedy of quashing the charge sheet dated 05-12-2001, issued by the first respondent on behalf of the second respondent, on the ground that it is illegal, arbitrary and without power.

The petitioner is working as a Telephone Supervisor in the respondents Organisation. A charge sheet dated 05-12-2001 was issued to the petitioner alleging certain irregularities said to be committed by him. The petitioner is questioning the validity of the charge sheet on two grounds. Firstly, the charge sheet was issued to him on the same grounds on which he was prosecuted and acquitted. Secondly, the charge sheet was not signed by the competent authority, though it was issued in the name of the said authority.

It is an established law that acquittal of an employee in a criminal proceeding is not a bar for initiating departmental action. Therefore, the petitioner is not entitled to agitate that the concerned authority is not competent to issue charge sheet by way of initiating the departmental action against him after his acquittal in the criminal proceedings.

The validity of the charge sheet is questioned on the ground that it was not signed by the authority in whose name it was issued. The learned Counsel for the respondents represented that as per CCS (CCA) Rules, the Divisional Engineer (Administration), is competent to sign the said charge sheet on behalf of Deputy General Manger in whose name it was issued. He further submitted that the petitioner is at liberty to agitate this aspect as well as all other aspects before the disciplinary authority and can get an order touching upon all those aspects, and as this is an interlocutory order, it is not desirable for the Court to interfere in the said

matter through the writ proceedings. He placed reliance on the judgment of the Supreme Court in **AIR INDIA LTD. V. M.YOGESHWAR RAJ**, wherein the Supreme Court held that the disciplinary authority was yet to finally decide the issues involved in this case and make up its mind about respondent's guilt, and this Court should not have pre-empted decision of the disciplinary authority on fact, nor should have the proceedings been stayed on a prima facie finding on the subject matter of inquiry when the disciplinary authority was yet to make up its mind.

The learned Counsel for the petitioner submitted that since the petitioner is questioning the validity of the very memorandum of charges on the ground that it was not signed by the competent authority, the writ petition cannot be maintained. In the present case, the petitioner after receipt of charge sheet, submitted his replies and actively participated in the enquiry. The enquiry was completed and the report was also submitted by the enquiry officer, and after that, it is under the active consideration of the disciplinary authority. In support of his contention, he relied on a judgment of the Supreme Court in **TRANSPORT COMMISSIONER V. A.RADHA KRISHNA MOORTHY**, wherein the Supreme Court held that when the charge sheet is vague regarding the allegations made against delinquent, the charge memo is liable to be quashed. In the present case, it is not the contention of the petitioner that the charges are vague, but the charge sheet was not signed by the authority in whose name it was issued.

In the light of the observation made by the Supreme Court in the AIR INDIA LTD.'s case (1 supra), it is not desirable at this stage to go into the merits of the case or to test the validity of the memorandum of the charges issued by the competent authority and signed by Divisional Engineer (Administration). However, the petitioner is at liberty to agitate this aspect along with all other aspects, which he intends to agitate, and it is for the disciplinary authority to pass appropriate orders, while passing orders in the disciplinary proceedings.

In view of the aforesaid circumstances, the writ petition cannot be maintained at this stage. The writ petition is accordingly dismissed. No costs.

21-07-2004

usd

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Divisional Engineer (Admn.) BSNL, O/o the G.M.T.D
Nizamabad.
2 The Deputy General Manager (A & P) O/o the General Manager Telecom

Department, Nizamabad.

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